

DEPARTMENT OF THE ARMY PERMIT

Permittee: Florida Department of Transportation, District 3
Attn: Joy Giddens
P.O. Box 607
Chipley, Florida 32428

Permit No: SAJ-2007-1759(IP-AWP)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The placement of clean fill material in 8.53 acres of waters of the United States (wetlands) for the widening of State Road 79 from County Road (CR) 388 north to Steelfield Road. The work described above is to be completed in accordance with the 3 attachments affixed at the end of this permit instrument.

Project Location: The project is located on State Road (SR) 79 from County Road (CR) 388 north to Steelfield Road. The project is located in Sections 9, 16, and 21, Township 2 South, Range 16 West, Bay County, Florida. The project as proposed will impact waters of the United States (wetlands) hydrologically connected to Crooked Creek and West Bay.

Directions to site: From the intersection of Interstate 10 and SR 79 proceed south on SR 79. The project starts south of Steelfield Road and ends at CR 388.

Latitude & Longitude: Latitude 30°19'1.22" North
Longitude 85°51'17.89" West

Permit Conditions

General Conditions:

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1. The time limit for completing the work authorized ends on Nov 14, 2012. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

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Special Conditions:

1. All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232. The Permittee shall reference this permit number, SAJ-2007-1759(IP-AWP), on all submittals.
2. The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.
3. Wetland impacts for this project will be mitigated through the Northwest Florida Umbrella, Watershed-Based, Regional Mitigation Plan (PLAN), as defined in the agreement between the Northwest Florida Water Management District (NFWMD) and the U.S. Army Corps of Engineers (Corps), Jacksonville District, July 31, 2006. The PLAN includes a combination of land acquisition, preservation, and restoration at the Ward Creek West site identified in section 5.4.2, July 6, 2007 update. To mitigate for impacts to waters of the United States (wetlands and surface waters) caused by widening of SR 79 from County Road (CR) 388 north to Steelfield Road in Bay County, the NFWMD will deduct 8.02 credits from the Ward Creek West ledger. Section 8.1 of the PLAN, Mitigation Credit Ledger, will be adjusted accordingly to reflect the credits used above.
4. Upon acquisition of the Ward Creek and Ward Creek West mitigation sites NFWMD shall provide a restoration/enhancement plan including success criteria to the Corps for recommendation and approval. If the Ward Creek and Ward Creek West parcels cannot be acquired by April 15, 2008, NFWMD will submit an alternate compensatory mitigation proposal to fully offset the functional loss that occurred as a result of the project. Also, the alternate mitigation proposal will include additional mitigation to compensate for the temporal loss of wetland function associated with the delay of compensation. See January 2007 PLAN revision, Section 11.10 for additional mitigation contingency planning.

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5. The NFWFMD shall provide an annual status report, in July 2008, as defined in the January 2007 PLAN revision, Section 11.0. The report shall include all six reporting criteria listed in the PLAN.

6. The NFWFMD shall provide annual provisions for full cost accounting as defined in Article IV, (14) of the Agreement between NFWFMD and the Corps executed July 31, 2006.

7. A representative of the Corps will be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this permit.

8. All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232 and US Army Corps of Engineers, Cocoa Regulatory Field Office, Attn: Andrew Phillips, 400 High Point Drive, Suite 600, Cocoa, Florida 32926.

9. Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

10. Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures around all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

11. Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment 3) to the Corps. The drawings

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shall be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899
(33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

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2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the

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circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

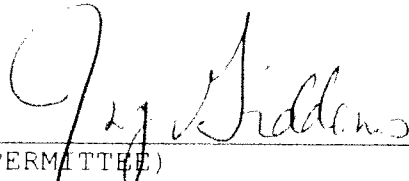
c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE)

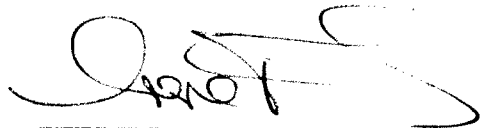
11/13/07

(DATE)

Joy Giddens

(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



fu (DISTRICT ENGINEER)
Paul L. Grosskruger
Colonel, U.S. Army
District Commander

15 NOV 07

(DATE)

NOV 06 2007

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and
Statement of Findings for the Above-numbered Permit Application

1. Applicant: Florida Department of Transportation, District 3
Attn: Joy Giddens
P.O. Box 607
Chipley, Florida 32428

2. Location, Project Description, Existing Conditions: The project is located on State Road (SR) 79 from County Road (CR) 388 north to Steelfield Road. The project is located in Sections 9, 16, and 21, Township 2 South, Range 16 West, Bay County, Florida. The project as proposed will impact waters of the United States (wetlands) hydrologically connected to Crooked Creek and West Bay.

The applicant proposes to impact 8.53 acres of waters of the United States (wetlands) for the widening of the existing SR 79 from two lanes to four lanes. The project proposes 19 wetland impact locations and three wetland crossings.

The wetland systems within the project corridor include hydric pine flatwoods and urban drainage ditches.

The hydric pine flatwoods community has been converted to coniferous plantation. The community is vegetated with slash pine making up the entire canopy. The shrub stratum is dominated by black titi with scattered wax myrtle, red titi, and gallberry.

Due to fire suppression and density of the shrub stratum the groundcover stratum was essentially nonexistent. Much of the site hydrology has been altered by the bed and furrowing for the planting of the pines and by the creation of multiple large drainage ditches that bisect the wetlands.

The urban drainage ditches areas are located in the northern extent of the project in a residential area. These ditches have been mowed and maintained and include a variety of plant species including *Carex spp.*, *Hydrocotyle spp.*, and grass cultivars.

Prior to a site inspection by the Corps the right-of-way had been cleared by the property owner. The applicant indicated that a contract had been negotiated for the right-of-way which allowed the owner to harvest all trees. The FDOT permits coordinator was

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not aware of the contract and is working with FDOT to revise its contract.

3. Project Purpose: Basic: Widening of an existing roadway.

Overall: Widening of an existing roadway with the associated stormwater management systems.

4. Scope of Analysis: The scope of analysis was limited to the project site and included endangered species, essential fisheries habitat concerns, and cultural resources.

5. Statutory Authority: Section 404 of the Clean Water Act (33 U.S.C. 1344).

6. Other Federal, State, and Local Authorizations Obtained or Required and Pending:

a. State Permit/Certification: The Department of Environmental Protection (DEP) permit number 03-0272279-001 was issued on 12 June 2007.

b. Coastal Zone Management (CZM) consistency/permit: There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida Coastal Zone Management Plan. Issuance of a DEP permit certifies that the project is consistent with the CZM plan.

c. Other Authorizations: No information has been received regarding any other authorizations that may be required.

7. Date of Public Notice and Summary of Comments

a. The application was received in the Panama City Regulatory Field office on 14 March 2007. The application was transferred to the Cocoa Regulatory Field Office on 22 March 2007. The application was considered complete on 5 April 2007. A public notice was issued on 5 April 2007, and sent to all interested parties including appropriate State and Federal agencies. All comments received on this application have been reviewed and are summarized below:

(1) Environmental Protection Agency (EPA): Did not respond to the public notice.

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(2) U.S. Fish and Wildlife Service (FWS): By electronic mail dated 29 June 2007, FWS indicated that they had previously determined the proposed project is not likely to adversely affect resources protected by the Endangered Species Act. Additionally, FWS provided comments in accordance with the Fish and Wildlife Coordination Act, stating all mitigation should occur within the same drainage basin as the impacts.

(3) National Marine Fisheries Service (NMFS): Did not response to the public notice.

(4) State Historic Preservation Officer (SHPO): By letter dated 24 April 2007, SHPO indicated that the proposed project would have no effect on any sites listed, or eligible for listing, in the National Register of Historic Places, or otherwise of national, state, or local significance.

(5) No comments were received from State or Local agencies, organizations, individuals or any other interested party.

b. Applicant's response to the comments: The comments were not coordinated with the applicant since no adverse comments were received. The applicant was asked to document avoidance and minimization strategies.

8. Alternatives:

a. Avoidance (No action, uplands, availability of other sites): The applicant evaluated SR 79 widening by completing a Project Development and Environmental (PD&E) Study. A PD&E evaluates the no build alternative, alternative corridors, alternative alignments, project costs, traffic counts, evacuation routes, etc.

SR 79 is part of the Florida Intrastate Highway System and a designated Emergency Evacuation Route for the coastal population of Bay and Walton Counties. The no build alternative would not allow for project completion. Additionally, significant traffic safety concerns along SR 79 would most likely occur if the project were not constructed. This segment of SR 79 is located between two segments of SR 79 which have been authorized for widening. Alternative corridors would not be feasible due to cost and environmental impacts. The applicant evaluated alternative alignments which shift the road, but determined

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widening from the center alignment would have the least amount of environmental and relocation impacts. Additionally, cost would be considerably less.

b. Minimization (modified project designs, etc.): The design speed of the roadway is 70 mph, which calls for a 60 ft. median. The applicant has minimized the median width to 40 ft. and will use the median for stormwater treatment. Additionally, $\frac{1}{4}$ of the roadway will be constructed with curb and gutter further reducing impacts outside of the existing right-of-way. Back slopes of the right-of-way swales have been reduced from 6:1 to 4:1.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The applicant has completed a functional assessment of the impact area and determined the existing on-site wetlands have a functional value of 0.5 within the undeveloped pine plantation areas and a functional value of 0.4 within the urban areas of the project. Because the on-site wetlands were cleared prior to the Corps evaluation we can only assume that the wetlands function similar to those located outside of the right-of-way. The Corps has determined the functional value is better represented at 0.63 FU for the undeveloped pine plantation and 0.5 FU for the urban areas. Direct impacts total 8.42 acres. Total functional loss for direct impacts is 5.30. The applicant has evaluated a 75-foot secondary impact area and determined 9.55 acres of wetlands would incur secondary impacts. The applicant completed a functional assessment and determined the roadway would cause 2.51 functional units of loss. The applicant proposes to mitigate the 8.02 functional units of loss by contributing funds in accordance with section 373.4137 F.S.

Funds will be contributed to the restoration of wetlands located within the Ward Creek West parcel. The parcel and restoration plan is identified in the North West Florida Water Management District (NFWFMD) Umbrella Mitigation Plan. The Corps has entered into an agreement with the NFWFMD to address the need for compensatory mitigation within the boundaries of the NFWFMD. The result of this agreement is the NFWMD Umbrella Mitigation Plan. The plan enables NFWFMD to acquire and manage environmentally sensitive lands prior to the mitigation needs of FDOT. The agreement between the Corps and NFWFMD outlines specific monitoring, maintenance, and conservation guidelines. Copies of the plan can be found online at www.nwfwmdwetlands.com.

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The Ward Creek Parcel is a 724 acre parcel located ¼ mile west of SR 79 in Bay County. The parcel consists of 518 acres of wetlands and 206 acres of uplands. The restoration plan identified in the Umbrella Plan calls for the restoration of hydric pine flatwoods and hydric pine savannas by thinning of bedded slash pine, ditch plugs where applicable, seeding of herbaceous vegetation, prescribed fire and perpetual ecological management. In wet areas, slash pine will be thinned to no more than 112 trees per acre. Areas determined to be upland will have all slash pine removed and be replanted with longleaf pine at no more than 200 trees per acre. Nuisance/exotic management may include use of approved herbicides.

NFWMD has determined restoration activities within the Ward Creek West parcel will generate 57.95 functional units of lift. 10.87 units have been deducted for SAJ-2006-4624(IP-DEB). Therefore, sufficient mitigation credits exist within the Ward Creek West parcel to offset impact evaluated in this EA-SOF.

To date the Ward Creek West parcel has not been successfully acquired by the NFWMD. The NFWMD has submitted information to the Corps which suggests the parcel will be secured within the next 60 days. A contingency mitigation will become effective in accordance with the Umbrella Mitigation Plan, January 2007 PLAN revision, see Section 11.10 for additional mitigation contingency planning.

9. Evaluation of the 404(b)(1) Guidelines: The proposed project has been reviewed in accordance with the 404 (b)(1) Guidelines. The review shows that all the alternatives have been reviewed and it has been adequately demonstrated that the proposed alternative is the least environmentally damaging and only practicable alternative considering cost, existing technology and logistics. It would not cause or contribute to violations of State Water quality standards, jeopardize the existence of any endangered species or impact a marine sanctuary. No significant degradation would be expected and all appropriate and practicable steps have been taken to minimize impacts.

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10. Public Interest Review:

a. Corps analysis of comments and responses: All comments received in response to the public notice have been considered in the following public interest review.

b. All public interest factors have been reviewed, including but not limited to the effects the work might have on conservation, economics, esthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, land use, navigation, shore erosion and accretion, recreation, water quality, safety, and consideration of property ownership. It has been determined that the proposed work will not adversely impact any of the public interest factors.

c. Describe the relative extent of the public and private need for the proposed structure or work: Public benefits include employment opportunities and a potential increase in the local tax base, travel safety, decreased travel delays, and increased mobility. Private benefits include land use and economic return on the property.

d. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the purposed work where there are unresolved conflicts as to resource use: There are no unresolved conflicts regarding resource use.

e. Describe the extent and permanence of the beneficial and/or detrimental effects which the proposed work is likely to have on the public and private uses to which the area is suited: Detrimental impacts are expected to be minimal although they would be permanent in the construction area. The beneficial effects for public transportation may include an increase in public safety, increased carrying capacity of the roadway and the more effective movement of vehicular traffic. The increased carrying capacity may also facilitate intrastate/interstate commerce.

f. Threatened or Endangered Species: The proposed project will not jeopardize the continued existence or critical habitat of any threatened or endangered species. This determination is supported by FWS electronic response dated 29 June 2007, indicating that they had previously determined the proposed

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project is not likely to adversely affect resources protected by the Endangered Species Act.

g. Essential Fisheries Habitat (EFH): Option A: The public notice included an initial determination that the project would have a minor adverse impact on EFH or Federally managed fisheries.

The NMFS did not provide any EFH conservation recommendations in response to the public notice. Therefore, the Corps is satisfied that the consultation procedures outlined in 50 CFR Section 600.920 of the regulation to implement the EFH provisions of the Magnuson-Stevens Act have been met.

h. Corps Wetland Policy: The proposed wetland alteration is necessary to realize the project purpose and should result in minimal adverse environmental impacts. The benefits of the project would outweigh the minimal detrimental impacts. The project would result in a no-net loss of wetland functions and values. Therefore the project is in accordance with the Corps wetland policy.

i. Cumulative and Secondary Impacts: Cumulative and secondary impacts would not be unacceptable. Filling of wetlands at this project site would not set precedent for additional filling activities in waters of the United States to occur. The applicant will implement Best Management Practices and erosion control measures to reduced potential secondary impacts.

j. Corps Comments and Responses: No adverse comments were received in response to the public notice. FWS concerns have been address by providing compensatory mitigation at the Ward Creek West site.

11. Determinations:

a. Finding of No Significant Impact (FONSI). Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

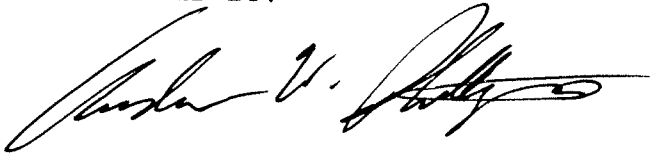
b. Compliance with 404(b)(1) guidelines. Having completed the evaluation in paragraph 7 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

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c. Public interest determination: I find that issuance of
a Department of the Army permit is not contrary to the public
interest.

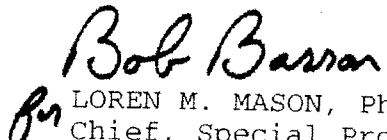
d. Section 176(c) of the Clean Air Act General Conformity
Rule Review: The proposed permit action has been analyzed for
conformity applicability pursuant to regulations implementing
Section 176(c) of the Clean Air Act. It has been determined that
the activities proposed under this permit will not exceed *de*
minimis levels of direct emissions of a criteria pollutant or its
precursors and are exempted by 40 CFR Part 93.153. Any later
indirect emissions are generally not within the Corps' continuing
program responsibility and generally cannot be practicably
controlled by the Corps. For these reasons a conformity
determination is not required for this permit action.

PREPARED BY:



* ANDREW W. PHILLIPS
Project Manager

REVIEWED BY:


LOREN M. MASON, PhD.
Chief, Special Projects and
Enforcement Branch

APPROVED BY:



PAUL L. GROSSKRUGER
Colonel, Corps of Engineers
Commanding

CF:
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